



## Ohio Administrative Code

### Rule 5101:12-55-20.1 Lien levy and execution.

Effective: August 1, 2023

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(A) This rule describes the process that a child support enforcement agency (CSEA) shall use when it decides to execute on a lien on personal or real property of an obligor that has been asserted by the CSEA in accordance with rule 5101:12-55-20 of the Administrative Code.

(B) For purposes of this rule, "execution" means a process issued by a court which directs the sheriff of a county to sell either real or personal property owned by a particular obligor upon which a CSEA has placed a lien. Execution on liens shall be done in accordance with Chapter 2329. of the Revised Code.

(C) Because an execution is a complex and expensive procedure involving advertising and publication costs, court fees, filing fees, auctioneer's fees, possible storage fees, bonds, title transfer costs, appraisal costs, title search fees, and service of process, the CSEA should carefully consider each of the following factors before making a decision to execute on a lien:

(1) The existence of prior liens or secured creditors. Prior liens and security interests can be determined by checking title record and other public records;

(2) The obligor's right to claim an exemption in the property to be seized and the amount of the exemption allowable in accordance with section 2329.66 of the Revised Code;

(3) Whether there are co-owners of the property who may have an interest in the property;

(4) The value of the obligor's equity interest in the property relative to the value of any mortgages, loans, other liens, or encumbrances which may be attached to the property;

(5) The estimated current market value and potential sale price of the property relative to the obligor's equity interest in that property;



(6) The storage cost of the property, if any, and the speed with which it must be sold to minimize the cost and not jeopardize the property;

(7) The execution notice and sale costs;

(8) Whether the estimated sale proceeds will produce a significant payment on the arrears;

(9) The need for immediate execution if bankruptcy is a strong possibility; and

(10) The position the obligor will be in after the property is sold and whether the seizure of the property will decrease the obligor's ability to earn a living or result in long term indigence.

(D) Execution of a lien.

(1) To execute on a lien, the CSEA shall file a complaint in the appropriate court of the county where the property is located in accordance with section 3123.74 of the Revised Code. The complaint shall be filed:

(a) In the court in the county where the support order was issued if the property is located in that county; or

(b) In the court of common pleas in the county where the property is located if the support order was issued in a state other than Ohio or if the child support order was issued by a county other than the one in which the property is located.

(2) The complaint shall contain all of the following in accordance with the requirements of section 3123.74 of the Revised Code:

(a) A statement that the CSEA has obtained a lien on real and personal property of the obligor that is located in the county;

(b) A statement that the CSEA is entitled to have the property sold and have the proceeds of the sale applied to the child support arrearage in the case; and



(c) A request that the court issue an order for the property to be sold by an execution sale in accordance with Chapter 2329. of the Revised Code.

(3) On receipt of a complaint, the court will conduct a hearing to determine whether the court has jurisdiction and whether the CSEA has obtained a lien pursuant to section 3123.74 of the Revised Code.

(4) The court will issue an order requiring the property to be sold by execution sale in accordance with Chapter 2329. of the Revised Code, if it determines that the court has jurisdiction and that the CSEA has obtained a lien in accordance with section 3123.74 of the Revised Code.

(5) If a CSEA has sent a Uniform Interstate Family Support Act (2008) petition to a child support agency in a responding state requesting enforcement of a support order, as described in rule 5101:12-70-05.5 of the Administrative Code, and the child support agency in the responding state has placed a lien on personal or real property owned by the obligor, the CSEA may request that the child support agency in the responding state execute on the lien using the applicable laws of the responding state.

(6) If a CSEA has sent the JFS 01132, "Notice of Lien" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code) to another state and the other state has placed a lien on personal or real property owned by the obligor, the CSEA may request that the other state execute on the lien using the applicable laws of that state.

A sale of real or personal property extinguishes the lien associated with the property pursuant to section 3123.75 of the Revised Code.

(E) Discharge of a lien imposed by a CSEA.

(1) A lien filed with the county recorder shall be effective until the county recorder discharges the lien.

(2) A county recorder shall discharge the lien within five days after the CSEA files a JFS 07006,



"Discharge of lien" (effective or revised effective date as identified in rule 5101:12-55-99 of the Administrative Code), requesting that the lien be discharged.

(3) The CSEA shall file the JFS 07006 requesting that the county recorder discharge the lien if one of the following applies:

(a) The lien is satisfied by an execution sale pursuant to Chapter 2329. of the Revised Code;

(b) The obligor makes full payment of the arrears to the office of child support, child support payment central;

(c) The CSEA requests the discharge of the lien in accordance with paragraph (E)(4) of this rule.

(4) At any time a CSEA may request the discharge of a lien on all or part of the property of the obligor or return seized property without liability in accordance with section 3123.76 of the Revised Code if:

(a) Assurance of payments is deemed adequate by the CSEA; or

(b) The discharge will facilitate the collection of the arrears for which the lien was imposed.

The discharge of a lien or the return of property does not prevent further action by the CSEA to collect arrears on the case.